



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Joseph Horwedel

**SUBJECT:** SEE BELOW

**DATE:** April 27, 2006

**COUNCIL DISTRICT:** 1  
**SNI AREA:** N/A

**SUBJECT: C05-107. CONFORMING CONVENTIONAL REZONING FROM R-1-5 RESIDENCE DISTRICT TO CO COMMERCIAL OFFICE ZONING DISTRICT ON 0.23 GROSS ACRE SITE, LOCATED ON THE SOUTHEAST SIDE OF SARATOGA AVENUE, APPROXIMATELY 90 FEET WESTERLY OF COLOMBO DRIVE.**

## RECOMMENDATION

Consideration of an ordinance rezoning of the real property located at the southeast side of Saratoga Avenue, approximately 90 feet westerly of Colombo Drive, from R-1-5 Residence Zoning District to CO Commercial Office Zoning District on a 0.23 gross acre site. The Planning Commission recommended denial of the proposed rezoning and voted 5-1-0 (Commissioner Dhillon opposed). Additionally, the Planning Commission recommended that the City Council reconsider the appropriateness of the General Plan designation of Office for this block of Saratoga Avenue. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

## OUTCOME

Adoption of a resolution to deny the subject rezoning of 2.3 gross acre site to from R-1-5 Residential District CO- Commercial Office to allow office uses.

## BACKGROUND

On April 26, 2006, the Planning Commission held a public hearing to consider a Planned Development Rezoning from R-1-5 Residence District to CO Commercial Office Zoning District on a 0.23 gross acre site. The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. A petition, signed by 22 area residents opposing the rezoning was submitted to staff at the public hearing(see attached).

Marc Hynes, the attorney representing the applicant spoke on behalf of the proposal. A neighbor to the rear of the subject property, Tim Ortez, stated that the existing building is unattractive and has an illegal commercial business that has been occupying the building without benefit of permits. He further stated that commercial uses were not appropriate at this location. Two other

HONORABLE MAYOR AND CITY COUNCIL

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Subject: C05-107

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neighbors also expressed similar concerns and indicated that there are no other commercial conversions on this particular block of Saratoga Avenue.

Commissioner Zito asked if there were any plans to construct a new office building. Staff indicated that there was no application on file, but given the on-going code enforcement issues with the existing structure, it is anticipated that the property owner will likely file an application for a Special Use Permit to legalize the conversion of the residential structure for commercial use.

Commissioner Levy questioned whether the General Plan designation of Office is appropriate given that, unlike other segments of Saratoga Avenue, there have not been any other house conversions on this block and the existing houses are generally very well maintained. The Commission asked to clarify the extent of the office designation. Staff indicated that the existing General Plan designation for Office extends along the entire length of this block between Colombo and McKinnon Drives. The Public Hearing was closed.

The Planning Commission voted 5-1-0 (Dhillon opposed) to recommend that the City Council deny the proposed rezoning and re-evaluate the appropriateness of the existing General Plan designation of Office for this segment of Saratoga Avenue.

### **PUBLIC OUTREACH**

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site and published in the San Jose Post record in conformance with the City's Public Outreach Policy. The Planning Commission Agenda, which is posted on the City of San Jose's web site includes a copy of the staff report for this project. Staff has also been available to answer questions from the public.

### **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

### **CEQA**

This project is Exempt from CEQA.

  
FOR JOSEPH HORWEDEL, SECRETARY  
Planning Commission

Business Phone #: (408) 535-7800

**Neighborhood Petition**

21 April 2006

**C05-107: Proposed Rezoning of 1354 Saratoga Avenue to Commercial Office (CO)**

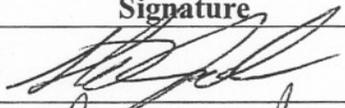
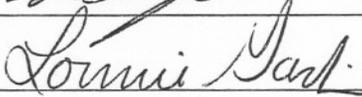
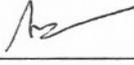
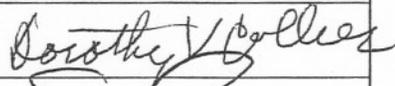
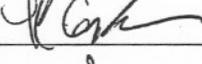
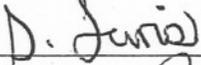
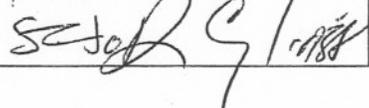
To: Joseph Horwedel, Acting Director, Planning, Building and Code Enforcement

We are neighbors who live adjacent to the property at 1354 Saratoga Avenue, and we **both oppose and reject** the proposed rezoning of the property to commercial office status. This issue was examined in City of San Jose hearings last year; the owners at that time were cited for failing to comply with city regulations, and were to have been fined.

This contemplated rezoning unnecessarily rewards the owners, who may not be residents of San Jose, **for flagrantly ignoring and abusing our rights** as private property owners when we abide by the city's property codes.

**Our vote = NO - NO - NO!!!**

**Please tell the owners at 1354 Saratoga to stop this nonsense and cease and desist.**

Name	Address	Signature
STEPHEN JACOBS	4583 Lathrop Ave SJ CA 95130	
LONNIE GUSKIN	4587 Lathrop Ave. S.J. CA 95130	
UMA SEKARAN	4571 Lathrop Ave SJ CA 95130	
Kim Lamp	17781 McKinnon Dr.	
DOROTHY COLLIER	17780 McKinnon Dr.	
Steve Lozoya	1348 Southwood	
Farzaneh Heydari	11596 Southwood	
Kevin A. Cohen	17741 McKinnon Dr.	
Steve Lewis	17760 McKinnon Dr.	
DON GAGLIASSO	1426 Southwood Dr	

10.

OVER →

## Neighborhood Petition

21 April 2006

### C05-107: Proposed Rezoning of 1354 Saratoga Avenue to Commercial Office (CO)

To: Joseph Horwedel, Acting Director, Planning, Building and Code Enforcement

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Name	Address	Signature
TIM ORTEL	11631 SOUTHWOOD	<i>[Signature]</i> 4/21/06
SHAM TAREKERE	11611 SOUTHWOOD	<i>[Signature]</i> 4/21/06
MICHAEL LAYMAN	1358 SARATOGA AVE	<i>[Signature]</i>
CNERYL LAYMAN	1358 Saratoga Ave	<i>[Signature]</i>
Robert Sandwal	1361 SHERWOOD	<i>[Signature]</i>
Noah York	1398 Saratoga Ave.	<i>[Signature]</i>
NIKKI COCHRAN	1350 Saratoga	<i>[Signature]</i>
Joseph Pettison	11641 Southwood	<i>[Signature]</i>
RAY GRADWOHL	17790 MCKINNON DR.	<i>[Signature]</i>
Edwood Olmstead	11651 Southwood Dr	<i>[Signature]</i>
RUSKIN R MAI	11661 Southwood Dr.	<i>[Signature]</i> 4-22-06
Kim Pasket	11660 Southwood Dr	<i>[Signature]</i>

## Neighborhood Petition

21 April 2006

### C05-107: Proposed Rezoning of 1354 Saratoga Avenue to Commercial Office (CO)

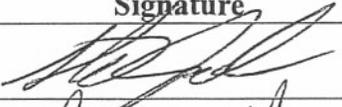
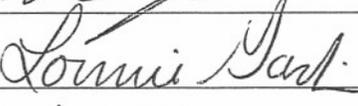
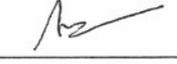
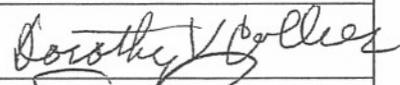
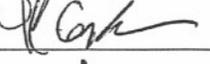
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10. DON GAGLIASSO	1426 Southwood Dr	

OVER →

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 E. Santa Clara St.  
San José, California 95113

Hearing Date/Agenda Number  
P.C. 4/26/06 Item 3.e.

File Number  
C05-107

Application Type  
Conventional Rezoning

Council District  
1

Planning Area  
West Valley

Assessor's Parcel Number(s)  
307-02-026

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Avril Baty

Location: East side of Saratoga Avenue between Colombo Drive and Latimer Avenue (1354 Saratoga Avenue)

Gross Acreage: 0.23                      Net Acreage: 0.23                      Net Density N/A

Existing Zoning: R-1-5 Residence                      Existing Use: Single-family detached residence

Proposed Zoning: CO Commercial Office                      Proposed Use: Office uses

### GENERAL PLAN

Completed by: AB

Land Use/Transportation Diagram Designation

Office

Project Conformance:

Yes     No

See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: AB

North: Single-family detached residential

R-M Residence

East: Single-family detached residential

R-1-5 Residence

South: Single-family detached residential

R-1-5 Residence

West: Single-family detached residential, multi-family residential

R-1-5 Residence, R-M Multiple Residence

### ENVIRONMENTAL STATUS

Completed by: AB

Environmental Impact Report

Exempt

Negative Declaration circulated on

Environmental Review Incomplete

### FILE HISTORY

Completed by: AB

Annexation Title: Payne No. 9

Date: May 15, 1974

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval

Date: 4/15/06

Approved by: 

Approval with Conditions

Action

Denial

Recommendation

### APPLICANT

### OWNERS

Eric Hynes  
600 W. Dana Street, Mountain View, CA 94042

Plato C LLC  
3101 W. Coast Hwy. #210, Newport Beach, CA 92663

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: AB

**Department of Public Works**

None Received.

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**Other Departments and Agencies**

None Received.

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**GENERAL CORRESPONDENCE**

N/A

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**ANALYSIS AND RECOMMENDATIONS**

**BACKGROUND**

The applicant, Plato C, LLC, is proposing a conventional rezoning of 0.23 gross acres from the R-1-5 Residence Zoning District to CO Commercial Office. The applicant's objective is to facilitate the legal conversion of an existing single-family residence to allow commercial uses that conform to the General Plan Land Use Designation of Office. If this rezoning is approved, the conversion of the structure to allow commercial uses will require the subsequent approval of a Special Use Permit. The existing structure has already been converted from a residence to a Tax Preparation office without benefit of permit. Currently, the Code Enforcement Division has an open case on the subject property.

Single-family residential uses border the site to the north, east and south multiple-family and single-family uses are located across Saratoga Avenue to the west.

**ENVIRONMENTAL REVIEW**

The proposed rezoning to CO Commercial Office implements the San Jose 2020 General Plan in that the Land Use/Transportation Diagram designates the subject site and adjacent sites along Saratoga Avenue as Office. The environmental impacts of this project were addressed by a Final EIR entitled, "San José 2020 General Plan EIR," which was certified on August 16, 1994, by the City of San José City Council Resolution Number: 65459.

**GENERAL PLAN CONFORMANCE**

The proposed rezoning is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Office. Additionally, the single-family properties on either site of the subject site are also designated as Office.

## ANALYSIS

Planning staff has determined that it is appropriate to rezone the subject site from R-1-5 Residence to CO Commercial Office, a zoning that conforms to the General Plan land use designation of office. Staff has reviewed a preliminary proposal for the conversion of the existing house to a commercial structure and has determined that the conversion as designed, would be problematic in the area of access to parking. A 20-foot wide two-way driveway providing access from the street to the proposed parking area behind the structure cannot be facilitated in accordance with City guidelines. The existing property has a 10-foot side setback within which a two-way driveway should be accommodated. However, the property has adequate parking to support a conversion to an office uses and, except for the driveway, generally has an appropriate site configuration.

The applicant attempted to include the adjacent property to the north (1350 Saratoga Avenue, at the southeast corner of Saratoga Avenue and Colombo Drive) in this proposal, but was unable to secure an agreement to this effect. The adjacent site has a General Plan designation of Office and could be eligible for rezoning if the property owner decides to propose a change in use. The inclusion of this corner parcel would facilitate a one-way circulation pattern with egress to Colombo Drive that could represent an appropriate alternative circulation pattern that meets City standards.

Given that the adjacent corner property is used as a residence and that the property owner is not interested in participating in a rezoning, a Director-initiated rezoning for this property would not be appropriate. Access across the corner parcel would only be appropriate if the parcel was also rezoned and converted to allow commercial uses.

It should be noted that while a house conversion is problematic, this rezoning could also facilitate the demolition of the existing house and development of the site with a new commercial building that more easily conforms to the City's design guidelines. The development of the site with a new commercial building would require the issuance of a Site Development Permit.

## RECOMMENDATION

Planning staff recommends the Planning Commission forward a recommendation of approval to the City Council to adopt an ordinance rezoning the site from R-1-5 Residence to CO Commercial Office for the following reason:

1. The proposed rezoning conforms to the General Plan designation of Office.
2. Although the subsequent house conversion may be problematic, the rezoning could facilitate the construction of a new building that conforms to the City's Commercial Design Guidelines and be compatible with the surrounding neighborhood.



Scale: 1"= 200'  
Noticing Radius: 500 feet

Map Created On:  
11/04/2005

**File No: C05-107**

**District: 1**

**Quad No: 97**